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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,618	01/15/2004	Stephen K. Herron	1776-0015	5782
76360 7590 09/12/2008 MAGINOT, MOORE & BECK LLP 111 MONUMENT CIRCLE SUITE 3250 INDIANAPOLIS, IN 46204				
EXAMINER				
DALEY, CLIFTON G				
ART UNIT		PAPER NUMBER		
2624				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,618

Applicant(s)

HERRON, STEPHEN K.

Examiner

CLIFTON G. DALEY

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed limitation of "generating device independent color space data from grayscale data that corresponds to the selected highlight" has two meanings, i.e. the "device independent color space data" could correspond to the "selected highlight", or the "grayscale data" could correspond to the "selected highlight". Applicant's disclosure teaches the first alternative (e.g. paragraph [0026]) but does not teach the second alternative.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed limitation of "generating device independent color space data from grayscale data that corresponds to the selected highlight" has two meanings, i.e. the "device independent color space data" could correspond to the "selected highlight", or the "grayscale data" could correspond to the "selected highlight". For purposes of examination the meaning that the "grayscale data" corresponds to the "selected highlight" will be assumed.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geshwind (US 5,050,984) in view of Tuijn et al. (Hereinafter Tuijn": US 6058207).

Regarding claims 1 and 8, Geshwind teaches a method and analogous system for generating highlight image data from grayscale image data comprising: selecting a highlight for conversion of grayscale image data (**column 7, lines 33-47**).

Geshwind does not specifically teach the further limitation of generating device independent color space data from grayscale data that corresponds to the selected highlight.

However, Tuijn discloses the method of generating device independent color space data from grayscale data that corresponds to the selected highlight (**column 8, lines 19-23**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Tuijn's method with Geshwind's teaching, the motivation to combine being to accurately specify the actual color produced independent of the device (**Tuijn: column 7, lines 31-32**).

Regarding claims 2 and 9, Geshwind in combination with Tuijn teaches the method and analogous system of claim 1, the highlight selection further comprising: using a document plug-in program to select the highlight (**Tuijn: column 6, lines 31-34**).

3. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geshwind in combination with Tuijn as applied to claim 1 above, and further in view of Masaki (US 6775408).

Regarding claims 3 and 10, Geshwind in combination with Tuijn teaches the method and analogous system of claim 1.

Geshwind in combination with Tuijn does not explicitly disclose the highlight selection further comprising: selecting a grayscale image file for highlight conversion.

However, Masaki discloses an imaging system further comprising: selecting a grayscale image file for highlight conversion (**column 3, lines 32-34**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Masaki's file selecting method with the combined teaching of Geshwind and Tuijn, the motivation to combine being to provide flexibility in image processing.

4. Claims 4-7 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geshwind in view of Tuijn as applied to claim 1 above, and further in view of Marsden et al. (Hereinafter "Marsden": US 6225974).

Regarding claims 4, 11 and 12, Geshwind in combination with Tuijn teaches the method and analogous system of claim 1, the device independent color space data generation further comprising: generating first device independent color space data from the grayscale image data **(Tuijn: column 8, lines 19-23)**.

Geshwind in combination with Tuijn does not disclose generating second device independent color space data from the first device independent color space data.

However, Marsden discloses generating second device independent color space data from the first device independent color space data **(Fig. 3, i.e. XYZ to Lab)**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to generate a second device independent color space data from the first device independent color space data, the motivation being to provide for flexibility in matching between multiple input devices and multiple output devices **(Marsden: column 3, lines 23-32)**.

Regarding claims 5 and 13, Geshwind in combination with Tuijn and in view of Marsden teaches the method and analogous system of claim 4, the first device independent color space data generation further comprising: converting the grayscale data to the first device independent color space in accordance with a device dependent profile (**Marsden: column 5, line 65 to column 6, line 3**).

Regarding claims 6 and 14, Geshwind in combination with Tuijn and in view of Marsden teaches the method and analogous system of claim 5, the second device independent color space data generation further comprising: converting the first device independent color space data to second device independent color space data in accordance with a device independent profile (**Marsden: column 8, lines 48-67**).

Regarding claims 7, 15 and 16, Geshwind in combination with Tuijn and in view of Marsden teaches the method and analogous system of claim 6 wherein the device dependent profile is for converting grayscale data to CIE XYZ color space data (**Marsden: column 2, lines 55-59**) and the device independent profile is for converting CIE XYZ color space data to calibrated RGB color space data (**Marsden: column 7, lines 9-14**).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLIFTON G. DALEY whose telephone number is 571-270-3144. The examiner can normally be reached on Monday - Friday 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached on 571-272-7413. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samir Ahmed
Examiner
Art Unit 2624

CGD
9/10/2008
/Samir A. Ahmed/
Supervisory Patent Examiner, Art Unit 2624